

227943

**FILED**

OCT 07 2010

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB FINANCE DOCKET NO. 35424

**SURFACE
TRANSPORTATION BOARD**

**SWANSON RAIL TRANSFER, LP-DECLARATORY ORDER
--CONSTRUCTION AND OPERATION EXEMPTION--
SWANSON RAIL YARD TERMINAL**

FEE RECEIVED

OCT 07 2010

I

**ENTERED
Office of Proceedings**

OCT 08 2010

TRANSPORTATION BOARD**INTRODCUTION**

**Part of
Public Record**

Swanson Rail Transfer, LP (hereinafter "SRT" or "Petitioner"), an existing class III short line common carrier by rail, having its principal place of business in Media, PA, (FD 35399 8/18/10) leases a parcel of land including a track of about 981' in length, here seeks an order that the construction of and reconfiguration of line, yard, supra and industrial tracks, and cargo handling facilities on that land is not within the Board's licensing jurisdiction and therefore is not subject to the requirements of 49 U.S.C. §10901 The proposed work will include construction of approximately 9,526 feet (1.8 miles) of track and related rail facilities within the existing 9.16 acre site (hereinafter, "the Site"), which site is railway yard property purchased from the Consolidated Rail Corporation ("Conrail")¹ in the City of Philadelphia, Philadelphia County, PA (See Paragraph 1 of Verified Statement of John Ryan set forth in Exhibit A, hereof, hereafter

¹ The property was purchased by BDB Corp. FD 35398 (8/18/10).

referred to as "Ryan VS"). All of the track will be yard tracks, spurs, industrial and team tracks, and sidings to be used to load, switch and store railway cars, i.e. spur and yard tracks as defined in 49 U.S.C. 10906.² The construction will also include two new connections added to the one already in place (and leads therefrom) between SRT and Consolidated Rail Corporation's (hereafter "Conrail Swanson Street Lead") which is on Conrail property immediately adjacent to the site.

The Swanson Street Lead currently provides service to the Oregon Bulk Terminal located about one-quarter mile north of the Site. The track on the Site is currently attached to the Swanson Street Lead, thus the connection proposed will not be a new interchange, but the same connection but with significantly increased capacity as it will now have run-around capability.

In addition, SRT will construct various cargo handling facilities on the Site. In summary, the proposed facilities include: (i) the aforesaid s improved connections with Conrail), pursuant to 49 CFR 1150.36; (ii) 1,295 feet of yard lead/loading track (to serve SRT's transloading facilities, described below) ("SRT Lead"), (iii) relocation of the original track on the property, 981 feet of track to continue to serve the Philadelphia Southeast Wastewater Treatment Plant (hereafter "PSEWTP") a former and now potential rail customer located adjacent to the Site to the east³, and (iv) 3,600 feet of track for (a) rail car storage yard and holding track, and (b) facilities for transloading solid waste, recycled materials, and wood chips ("the Swanson Terminal"). (See Ryan VS ¶ 2).

² The Site is located at 13 Pattison Avenue in what is known as 'South' Philadelphia.

³ The PSEWTP originally had a track installed to receive rail cars of chlorine. The PSEWTP ceased receiving chlorine by rail but seeks to retain rail access to transport sludges and/or wastewater by rail in the future.

All construction contemplated will be on existing railroad property including all tracks connecting the Swanson Terminal to Conrail's line. All cargo handling facilities now planned are fully permitted by the State of Pennsylvania and all facilities planned conform to all siting regulations of the City of Philadelphia. Therefore, SRT does not seek and will not be seeking siting authority for these facilities.

The purpose of this construction is to enable SRT to provide common carrier railroad services to the public through a proposed transloading facility to be constructed by SRT, and to facilitate additional transloading for recyclables and wood chips. (See Ryan VS ¶3). Currently, efficient rail transportation is not available to solid waste generators in the City of Philadelphia, which prevents them from reaching more competitive landfill and disposal sites which are not economically accessible by truck.⁴ The Swanson Terminal will reduce the City of Philadelphia Department of Sanitation (hereafter "PDOS") and other Philadelphia solid waste generators' reliance on truck transport of solid waste generated from Philadelphia. (See Ryan VS ¶ 4)

Specifically, the Swanson Terminal when completed will allow transport of over 500,000 tons of solid waste generated from the Philadelphia area annually, as well as transport of wood chips and recyclables. Trucks currently use local roads to transport these commodities through Philadelphia to sites north, west and south of the City on the heavily congested Schuylkill Expressway (I-76) and I-95. The Terminal will divert over 50,000 truck trips from these roads annually, partially alleviating the area's air pollution, congestion, noise, and highway wear and tear, while furthering safety and energy independence. (See Ryan VS ¶ 5)

⁴ As truck transport of solid waste exceeds a truck roundtrip which can be completed in one-day (based on allowable hours of driving), the economic viability of such transport diminishes. The lower priced rail served landfills located in western Pennsylvania and Ohio are more than a one-day's roundtrip drive, and consequently, cannot be reached economically by truck from Philadelphia.

Currently, there are no solid waste transfer stations in the City of Philadelphia which utilize rail to transport solid waste. None of the existing truck based solid waste transfer stations in the City of Philadelphia have sufficient additional space to bring trackage and switches onto the site for transloading solid waste and storage of a necessary supply of rail cars to provide reliable transloading service⁵. (See Ryan VS ¶ 6)

The City of Philadelphia in a multi-agency study resulting in its report titled *Local Action Plan for Climate Change, April, 2007*, recommended that PDOS seek alternative means of disposing (including transporting) its solid waste. These recommendations have been supported by various City Councilmen and the Philadelphia Clean Air Council. (See Ryan VS ¶ 9) Based on discussions SRT managers have had with the PDOS, which is expected to be a major shipper from the Swanson Terminal, City of Philadelphia Planning Commission, and independent solid waste hauler's, there is a need and desire to transport solid waste by rail instead of the existing truck mode of transportation. (See Ryan VS ¶ 10)

Rail operations will consist of an average of 20 cars per day six days per week. These cars will combine with cars from the Oregon Bulk Yard and the PSEWTP adjoining the Site to the east, moved on-site, classified and handed off to Conrail where they will be added to existing rail service provided by Conrail on its Swanson Street Lead which runs past the Site to the west. Consequently, the rail operations will not create an increase in trains at any grade crossings in the City of Philadelphia. (See Ryan VS ¶ 11)

SRT was created for the purposes of developing the Swanson Terminal, and its affiliate BDB Company (hereafter "**BDB**"), which owns the Site and leases it to SRT, were recognized as

⁵ Because of the nature of solid waste, for health and safety reasons a rail served solid waste transfer station must maintain a minimum of on-site storage tracks to hold at least a 3 days' supply of rail cars in the event rail service is temporarily delayed.

class III short line common carrier railroads by the Surface Transportation Board as of September 1, 2010. FD 35399.

SRT submits: (i) the Verified Statement of SRT Manager, John C. Ryan, PE as Exhibit A (hereafter “Ryan VS”). Mr. Ryan describes the proposed railroad operations; (ii) maps showing the relationship of the Swanson Terminal to be constructed to the existing Swanson Street Lead as well as to the surrounding areas and highway network as Exhibit B; and (iii) drawings (hereafter “Drawings”) of the Site as it exists today and the proposed Swanson Terminal as Exhibit C,

Finally, for the reasons discussed herein, SRT requests expedited handling with a decision served by December 31, 2010, effective immediately upon service. In that regard, SRT submits as Exhibit D a proposed schedule for processing this Petition and the related environmental actions, which SRT has already initiated. Because petitioner believes that this construction does not require Board approval it is hoped that this schedule can be met so that this facility can be opened in time to qualify to bid on the removal of City of Philadelphia municipal solid waste, which would maximize the benefits to the public.

II

FACTUAL BACKGROUND

Petitioner SRT seeks to construct and operate a rail facility on railway lands it acquired from Conrail FD 35398 to create the Swanson Terminal. The Site is in south Philadelphia. Towards that end, SRT has entered into a lease of the Site from BDB, FD 35399 supra. Once constructed, the loading, interchange and storage tracks will include approximately 9,526 feet including reconstruction of the existing connection with Conrail’s Swanson Street Lead.

The Swanson Terminal is being built on land formerly used as a Rail Yard, and which has not been abandoned from such use.⁶ The Swanson Terminal can be built and operated utilizing the existing switch from the Swanson Street Lead, requiring no construction outside of the confines of the former Rail Yard. The additional two switches and the associated SRT Lead, if they are considered to be outside of the former Rail Yard, are being constructed and operated for the convenience of Conrail to facilitate a more efficient switching into the Swanson Terminal, and are not required for the operation of or service to the Swanson Terminal. (See Ryan VS ¶24)

The SRT Lead track (as distinguished from Conrail's Swanson Street Lead) will then branch out into a series of yard tracks as well as transloading tracks for a total of about 9,526 feet in length. (See Ryan VS ¶ 1 and 2) Upon receiving a decision from the Board that a petition for construction authority is not required, SRT will also construct facilities substantially in accordance with the Drawings to permit the transloading of freight between rail cars and trucks. (See Ryan VS ¶ 12),

On January 15, 2010, SRT received a permit (hereafter "the PaDEP Permit") from the Pennsylvania Department of Environmental Protection (hereafter "PaDEP") to construct and operate a transfer station capable of transloading up to 2,500 tons per day of solid waste from trucks to rail cars, and SRT has also received a zoning certificate from the City of Philadelphia approving the operation of a solid waste facility on the Site (See Ryan VS ¶ 13). The Site is located in a heavy industrial area of Philadelphia which is in a 'least restrictive' zoning area as designated by the City of Philadelphia, which allows the Swanson Terminal to be built and operations to be conducted 'as-of-right'. (See Ryan VS ¶ 14). Therefore, SRT has obtained or

⁶ See footnote 2, *infra*.

will obtain all state and local permits and approvals to construct and operate the Swanson Terminal, and, therefore, will not be seeking Board jurisdiction under the Clean Railroads Act.

As part of the process of obtaining the PaDEP Permit, SRT solicited and received comments from various local, state and federal agencies, set forth in Attachment C of Ryan VS. PaDEP then held a meeting at which it invited all interested local, state and federal agencies to hear their comments on the application for the proposed PaDEP Permit. As part of the process of obtaining the PaDEP Permit, the PaDEP conducted its own environmental analysis based in large part on information provided by SRT in the PaDEP Permit application Part D, which has been previously delivered to the Board's Office on Environmental Analysis (hereafter "OEA"), as well as comments it received from other agencies as part of the local municipal involvement plan ("LMIP") (which is part of the PaDEP Permit process), and PaDEP concluded that the Swanson Terminal created no significant impact. The PaDEP Permit process involved: extensive outreach to other state and federal agencies (Attachment C of Ryan VS sets forth the communications and responses) as well as the LMIP meeting at which all local and state agencies are invited to comment on environmental and logistical issues created by the proposed Swanson Terminal; contacts with and presentations to the local community by both SRT and PaDEP (Attachment D of Ryan VS sets forth meetings held with various local communities and their elected officials); an independent study of any potential environmental justice impacts from the Swanson Terminal; and a review of data regarding the Swanson Terminal, its operations, traffic patterns (including separate traffic studies) and the surrounding area. (See Ryan VS ¶ 15)

In addition, SRT has and continues to hold meetings with the local community to solicit their comments regarding the proposed Swanson Terminal and keep them informed of its progress. (See Ryan VS ¶ 15)

Currently, almost all solid waste collected by PDOS, as well as private waste haulers, is transported out of Philadelphia by long-haul trucking. The City of Philadelphia in a multi-agency study resulting in its report titled *Local Action Plan for Climate Change* recommended that the City seek alternative means of disposal (including transporting) its solid waste. (See Ryan VS ¶ 8) The PDOS contract (the “City Contract”) for transfer, transport and disposal of solid waste is up for renewal in June, 2012. (See Ryan VS ¶ 6) In order to compete for the City Contract the Swanson Terminal will have to be operational at least 3 months prior to that date. (See Ryan VS ¶ 7) Initially, SRT anticipates that PDOS will be one of its major initial rail customers; however, as a common carrier, SRT will solicit freight business from any customer seeking to use its services and the Swanson Terminal. In addition to solid waste, SRT has been approached by firms seeking to move wood chips as a fuel source to bio-treatment plants, as well as sand and gravel as part of a back-haul. The initial traffic to be handled through the Swanson Terminal will consist of about 6,000 car loads annually of outbound solid waste and wood chips, which currently are generated in the Philadelphia area and travel out of the area by truck. SRT will replace this truck traffic with rail transportation because increased fuel costs, higher tolls, lower gross vehicle weights over bridge crossings and increasing highway congestion moving out of Philadelphia make motor carrier transportation less economical and practical. Furthermore, as local landfill and other solid waste disposal prices increase, rail transportation will afford PDOS and local businesses economically feasible access to more competitive distant disposal options. (See Ryan VS ¶ 8)

SRT has applied to the Federal Railroad Administration (hereafter “FRA”) for a loan pursuant to the Railroad Rehabilitation and Improvement Act (hereafter “RRIF”) loan program. In conversations among the FRA, the OEA and SRT, FRA has expressed its opinion that SRT’s activities to be funded by the RRIF loan would be categorically exempted from an environmental review based on the National Environmental Protection Act rules that apply to the FRA’s RRIF program. (See Ryan VS ¶ 16)

Because the Swanson Terminal is being built on a former rail yard and all construction involves industrial, team, switching, or side tracks which has always remained rail property, it does not require Board authority for construction..

Since the statutes appear to provide that this application for reconfiguration of tracks in a rail yard which is part of existing railroad property to meet the demands of the current market, and additional connecting tracks to a spur on immediately adjacent railroad property, particularly where the additional connections are for the purpose of increasing efficiency, do not require Board approval and for the other reasons stated herein, Petitioner seeks expedited consideration with a decision requested by December 31, 2010 as assurances that all regulatory steps have been completed or deemed unnecessary is required to commence and complete construction in time to be qualified to bid on the municipal solid waste contracts for the City of Philadelphia, and thus to maximize the public benefits to be derived from this project. Nevertheless, if the Board determines that construction of the two additional switches represents construction which require Board authority to proceed, the environmental review should be limited to a review of the impacts of those two switches only since the rest of the construction and operations of the Swanson Terminal can proceed even if those two switches are not built.

III

DESCRIPTION OF THE PROPOSED TRACKS AND PLANNED OPERATIONS

Petitioner's proposal entails the construction of a railroad yard on a 9.16 acre parcel of land at 13 Pattison Avenue in south Philadelphia. Although this track would extend about 9,526 feet if laid out end-to-end, at its broadest point the entire parcel only extends about 200' from side to side and about 2,200 feet from one end to the other. (See Ryan VS ¶ 17) The Line connects through an existing switch with Conrail's Swanson Street Lead track which is on Conrail property which has a common boundary with the Site, allowing the additional connecting tracks to be built entirely on existing railroad lands⁷. Two additional switches will be built connecting the Swanson Street Lead to the Site to serve the SRT Lead which is a runaround track to increase the efficiency of switching operations. (See Ryan ¶24) The Swanson Street Lead begins at a switch in the Delaware Extension Yard Track, Conrail Line Code 1143 (also referred to as the Delaware Extension) at Milepost 7.5, which switch is located about 750 feet south and west of the south western corner of the Site. That connection is approximately 5 miles from Center City Philadelphia. (See Ryan VS ¶ 18)

Site Location

The Site is located in the center of the Port of Philadelphia and the food distribution district, and less than one mile from the Philadelphia Navy Yard. The area is characterized by heavy truck traffic. Classified as a nonattainment area for purposes of air quality, Philadelphia's population in 2008 was 1,540,000. (See Ryan VS ¶ 19)

The Site is bounded: on the north by the elevated I-76 approach to the massive Walt Whitman Bridge crossing the Delaware River; on the west by the elevated I-95 exit ramp and the

⁷ One connection is the existing switch between the Swanson St. Lead and the Site.

extremely busy six lanes of I-95 itself; on the south by Pattison Avenue and the Greenwich Rail Yard (shared by CSXT, Norfolk Southern Railroad and Conrail); and on the east by the PSEWTP and a truck based solid waste transfer station. There are no residences, schools, playgrounds, hospitals, nursing homes or assisted living facilities adjoining the Site. The closest residential area or other sensitive receptor is over 2,000 feet to the north and west of the Site well screened by both of these extensive highway traffic structures. (See Ryan VS ¶ 20).

In selecting a suitable site for transloading solid waste from truck-to-rail, several criteria must co-exist: good access to the local highway network; access to reliable rail service; sufficient space and geometry for transloading operations and back-up storage for at least three days' supply of empty rail cars; well buffered from residential areas and other sensitive receptors; properly zoned for such use; and available for development. The Site fulfills all of these requirements. (See Ryan VS ¶ 21)

No Significant Increase in Traffic

In the process of obtaining the State Permits, the State of Pennsylvania determined that the proposed operation will not increase truck traffic significantly on any segment of roadway. That analysis has been presented to the OEA. Service from the Swanson Terminal will consist of adding approximately 20 cars per day to the daily Conrail service which currently passes by the Site on the Conrail Swanson Street Lead on its way to the Oregon Bulk Yard located approximately one-quarter mile north of the Site. Conrail provides this service in the middle of the night. Consequently, the Swanson Terminal will not require additional trains along the Conrail Swanson Street Lead. The only grade crossing within Philadelphia which will be affected by this service is the crossing at Pattison Avenue, adjacent to the Site. Since this crossing will result in an additional delay of up to 3 ½ minutes twice daily (once in-bound and

once out-bound) which will occur during the middle of the night when there is little traffic in the area, there should be no significant adverse impact on road traffic or safety in the area. (See

RyanVS ¶22

Not An Extension of Line Into New Territory

The Swanson Terminal will not be extending rail service into new territory. It represents a proposal in a geographic area already well served by rail to provide additional rail service for specific commodities, which commodities currently lack the proper facilities to facilitate a transloading of those materials from truck to rail.

**Public Convenience and Necessity
And the Need for Expedited Consideration**

As stated above the construction and operation of this terminal will remove a large amount of cargo from the public highways as well as provide the City of Philadelphia and the region's businesses with a rail alternative with its economic benefits. However, the major public benefit will be achieved if Municipal Solid Waste generated daily by the City can be moved out of the City by rail. The City Contract is up for renewal in less than two years and the City is facing a tight budget. (See Ryan VS ¶ 6 and 23) The Swanson Terminal will enable the PDOS to access more competitive rail served landfills which, because of their distance from Philadelphia, cannot be economically accessed by truck⁸, allowing the PDOS to save tens of millions of dollars over the course of the next contract. Furthermore, the Swanson Terminal will allow other businesses to lower their solid waste disposal costs by affording them access to appropriate competitive rail served landfills. The Swanson Terminal will also allow wood, paper, plastics

⁸ See footnote 5, above.

and metal recycling facilities to gain viable access to a broader array of markets than they can reach by truck. (See Ryan VS ¶ 7)

No Adverse Environmental Effect

There will be no public access to and no public grade crossings on the Site. No SRT track will cross any navigable waterways. (See Ryan VS ¶ 25) There are no wetlands or known endangered animal or plant species potentially affected by this project. (See Ryan VS ¶ 26). To the best of Petitioner's knowledge the proposed improvements do not traverse any ancient Indian burial grounds, archeological sites, unique land forms, or federal lands. (See Ryan VS ¶ 27). As stated above there is no significant increase in rail or highway traffic.

Regarding environmental impacts, Petitioner believes this project will be environmentally beneficial. It anticipates that the environmental effects of its proposed construction project will be minimal. The subject area is a nonattainment area. SRT believes that the utilization of rail instead of truck will promote energy conservation and reduce air and noise pollution. Furthermore, use of rail will improve highway safety and reduce traffic congestion. Finally, use of rail will improve recycling by providing recycling facilities with a broader access to markets for their materials. (See Ryan VS ¶ 28)

IV

ARGUMENT

49 U.S.C. §10906

Petitioner is a Class III rail carrier which has acquired railroad land with one track on it and has become a common carrier. Pursuant to 49 U.S.C. §10906 the Board's authority is not required to build the yard, industrial, team or side tracks in an existing rail yard served by an

existing switch all of which is on railroad property, such as those planned here. Pursuant to 49 C.F.R. §1150.36 the Board has also exempted connecting tracks built entirely on railroad lands. Despite the fact that the connection with Conrail contemplated in this plan is not new but uses an existing connection and adds two new connections between the rail lines in issue only to increase efficiency, Petitioner has provided OEO substantially all information which would otherwise be required to meet the environmental requirements of §1150.36 by presenting the OEA with the Environmental Reports prepared for the PaDEP upon which that Department determined that the project had no significant adverse environmental effect and thus issued a permit to construct and operate the facility, and other information as requested by OEA--and SRT will continue to provide any information as requested by OEA in this regard.

The 1995 revision to §10901(c) directs the Board to issue a certificate authorizing construction unless it finds that such construction would be inconsistent with the public convenience and necessity. Board precedent establishes a clear presumption *favoring* (emphasis added) construction proposals. Midwest Generation, LLC – Exemption from 49 U.S.C. 10901 – For Construction in Will County, IL, STB Finance Docket No. 34060, Slip op. at 7-8 (served March 21, 2002). Therefore, whereas here the project appears to be outside the Board's permitting jurisdiction and that no reason to extend that jurisdiction to this project exists, the Board should clarify the situation by stating specifically that the construction on the Site, as outlined above, does not require Board approval.

The interpretation of the statute urged by the Petitioner is consistent with the trend to exempt small construction projects from the provisions of §10901 such as Effingham RR Co.—Pet. For Declaratory Order, 2 S.T.B. 606 (1997) involving the construction, acquisition, and/or operation of common carrier rail facilities by short line railroads to serve industrial parks and

transload facilities (See also, New England Transrail, LLC d/b/a Wilmington & Woburn Terminal Railway—Construction, Acquisition and Operation Exemption – In Wilmington and Woburn, MA, STB Finance Docket No. 34797, slip op. served July 10, 2007; and U S Rail Corporation – Construction and Operation Exemption – Brookhaven Rail Terminal, STB Finance Docket No. 35036, slip op. served June 7, 2010 (hereafter “US Rail”). These projects are and will increasingly be necessitated by the disappearance of facilities around major cities for shippers to get access to rail lines which has fostered the shift of car load traffic to public transload terminals.⁹

In any case the Board has almost invariably allowed smaller construction proposals such as that here to utilize the individual exemption procedures of 49 U.S.C. 10502 to obtain approval. See, e.g., Ellis County Rural Rail Transportation District – Construction and Operation Exemption – Ellis County, TX, STB Finance Docket No. 33731, (served Feb 15, 2000) (hereafter “Ellis County”); Pemiscot County, MO, STB Finance Docket No. 34117 (served July 2, 2002) (hereafter “Pemiscot”); and Southwest Guld Railroad Company – Construction and Operation Exemption – Medina County, TX, STB Finance Docket No. 34284 (served May 19, 2003) (hereafter “Southwest”). Here, however, the construction proposed appears not to require any Board action.

Therefore, as, in addition to the statutory limitation on the Board’s licensing authority, regulation of this facility—(1) is not necessary to carry out the transportation policy of §10101a

⁹ See, e.g. SMS Rail Service, Inc – Petition for Declaratory Order, STB Finance Docket no. 34483 (served Jan. 24, 2006), citing SMS Rail Service, Inc. – lease and Operation Exemption – Pureland Association, Inc. Finance Docket No. 32494 (ICC served May 26, 1994). Penn-Jersey Rail Lines – Acquisition and Operation Exemption – Lines in Penn Warner Industrial Park, Falls Township, bucks county, PA, STB Finance Docket No. 33835 (served may 5, 2000), and SMA rail Service, Inc. – Acquisition and Operation Exemption – Valero Refining Company—New Jersey, STB Finance Docket No. 33927 (served Sept. 22, 2000), Yolo Shortline Railroad Company – Lease and Operation Exemption – Port of Sacramento, STB Finance Docket No. 34114, (served Feb. 3, 2003).

of this title as (a) the transaction or service is of limited scope, and (b) the application of a provision of this subtitle is not needed to protect shippers from the abuse of market power, See 49 U.S.C. 10502(a) this transaction should be deemed outside the Board's jurisdiction..

V.

EXPEDITED HANDLING REQUESTED

SRT requests that the Board expeditiously consider and grant its proposal. Any delay could adversely affect its ability to provide rail service to PDOS, identified as its largest potential customer, at the time that PDOS current contract is up for renewal. Moreover, delays could result in unnecessary utilization of motor carrier transportation of solid waste over the congested Schuylkill Expressway (I-76) and I-95 corridors to the detriment of the public generally during the entire life of any renewed City Contract.

SRT does not believe that this construction proposal will have any significant adverse environmental, historic, or community impacts. At the state level, the projected construction and operation of the Swanson Terminal has undergone a review of all potential environmental, historic and community impacts as part of the PaDEP Permit process and the issuance of the PaDEP Permit reflects a determination by the state PaDEP that the Swanson Terminal that the will not have any significant adverse environmental, historic or community impacts. Independent of the PaDEP Permit process, SRT has regularly met with the local community in open public meetings and with elected and appointed officials to discuss the proposed Swanson Terminal and provide an opportunity to voice their comments.

SRT doubts that this proposal will present the sort of issues that other construction proposals typically involve. The project does not cross any navigable bodies of water, nor does

it affect any wetlands so the jurisdiction and permitting process of the US Army Corps of Engineers are not implicated. SRT is not aware of the presence of any Indian artifacts or cultural resources or unique land forms on the Site. Furthermore, there are no buildings of any sort currently on the Site. Accordingly, there should be no impacts under the National Historic Preservation Act warranting attention. SRT is also not aware of any endangered animal or plant species on the Site that would require the preparation of a Section 7 biological assessment.

As to community impact and safety, SRT would eliminate significant outbound truck traffic which otherwise would move on area highways. Potential truck traffic from the Swanson Terminal will not generate any significant increases in air or noise pollution. Additionally, the impacts on the local population should be modest as there are no residences, schools, hospitals, recreation facilities, or retail establishments nearby.

SRT has reviewed other fairly straight forward construction proposals such as those filed in Ellis County, Alamo, Southwest and US Rail, supra, and found that the time required from the date of filing the petition to the date of the final decision ran between 6 and 24 months. In view of the fact that petitioner is proposing to build terminal facilities on land devoted to rail service for many years and to increase the capacity and efficiency of a connection to Conrail and Swanson merely seeks to clarify that this project does not need Board approval before work is started on proposed facilities and as speed is essential.

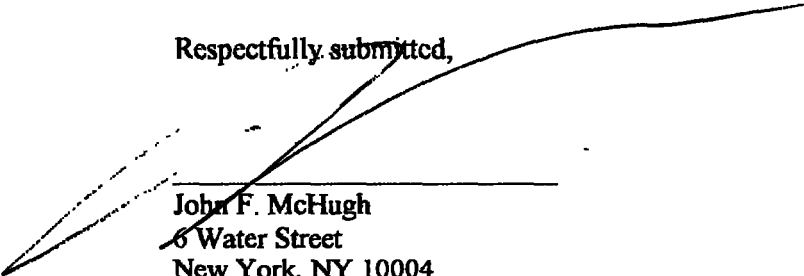
VI

CONCLUSION

Accordingly, SRT requests that the Board expeditiously confirm that the construction proposed by SRT is not within the Board's licensing jurisdiction.

Dated: New York, NY
October 4, 2010

Respectfully submitted,



John F. McHugh
6 Water Street
New York, NY 10004
212-483-0875

VERIFICATION

John F. McHugh declares pursuant to 28 U.S.C. 1746 that he is the attorney for SWANSON RAIL TRANSFER, LP is authorized to make this declaration, and knows the representations hereinabove made in this Notice of Exemption are correct from his own knowledge and/or that he believes the information provided to be correct based upon the information known.

The undersigned declares under penalty of perjury that the forgoing is true.

Dated, New York, N.Y.

~~September~~ Oct. 4, 2010

A handwritten signature in black ink, appearing to be "John F. McHugh", written over a horizontal line.

EXHIBIT A

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB FINANCE DOCKET NO.35424

**SWANSON RAIL TRANSFER, LP-DECLARATORY ORDER
--CONSTRUCTION AND OPERATION EXEMPTION--
SWANSON RAIL YARD TERMINAL**

**VERIFIED STATEMENT OF
JOHN C. RYAN, P.E.**

My name is John C. Ryan, P.E. and my business address is 31 Tamarack Road, Mahopac, NY 10541. I am a professional engineer and a member of Swanson Rail Transfer, L.P. (hereafter "SRT" or "Petitioner"). I have been involved in SRT's proposal to build and operate a terminal railroad facility (hereafter "the Facility") on the property at 13 Pattison Avenue, Philadelphia, PA since the project was first conceived. As a managing member, I have been personally involved in all business, engineering and permitting aspects of the project.

1. SRT, an existing class III short line common carrier by rail, having its principal place of business in Media, PA, seeks to construct and operate approximately 9,526 feet (1.8 miles) of new line of railroad and related rail facilities (hereinafter "the Line") at a new, yet-to-be

constructed 9.16 acre site (hereinafter, **"the Site"**) in the City of Philadelphia, Philadelphia County, PA.¹

2. In addition to the construction and operation of the approximately 1.8 miles of rail line, SRT also proposes to construct various facilities on the Site. These facilities, which are all part of the Line, include: (i) rail switches (which would allow the rail line to connect to the existing Consolidated Rail Corporation's (hereafter **"Conrail"**) Swanson Street Lead track)²; (ii) 1,295 feet of lead track (to serve SRT's transloading facilities, described below, as well as facilitate rail car switching and classification services for a bulk material transloading yard (hereafter **"the Oregon Bulk Yard"**) located approximately one-quarter mile north of the Site)³; (iii) 981 feet of track to serve the Philadelphia Southeast Wastewater Treatment Plant (hereafter **"PSEWTP"**) a potential rail customer located adjacent to the Site to the east⁴; (iv) 3,600 feet of track for an intermodal rail car storage yard and holding track, and solid waste, recycled materials and wood chip fuel handling, storage and transloading facilities with truck scales (hereafter the handling, storage and transloading facilities to be referred to as **"the Swanson Terminal"**).

¹ The Site is located at 13 Pattison Avenue in what is known as 'South' Philadelphia.

² The Site is a parcel of land formerly used as a railway yard, known as the Swanson Rail Yard which was part of the larger Whiskey Rail Yard. The Line connects with Conrail's Swanson Street Lead track (the **"Swanson Street Lead"**) which is west of the Site. The Swanson Street Lead begins at a switch in the Delaware Extension Yard Track, Conrail Line Code 1143 (also referred to as the Delaware Extension) at Milepost 7.5, which switch is located about 750 feet south and west of the south western corner of the Site.

³ The Oregon Bulk Yard is operated by Savage Rail Services, Inc. and is currently served by Conrail. When Conrail serves the Oregon Bulk Yard it first sends a locomotive from the Greenwich Yard (south of Pattison Avenue) crossing Pattison Avenue and hauling outbound cars across Pattison Avenue. It then pushes in-bound cars from the Greenwich Yard crossing Pattison Avenue again and delivers them to the Oregon Bulk Yard. In serving the Oregon Bulk Yard, a Conrail engine crosses Pattison Avenue four times (twice without cars and twice with cars).

⁴ The PSEWTP originally had a track installed to receive rail cars of chlorine. The PSEWTP ceased receiving chlorine by rail but has expressed a desire to transport sludges and/or wastewater by rail in the future, but no date has been set for such transport.

3. Conrail currently provides service over the Swanson Street Lead to the Oregon Bulk Terminal located about one-quarter mile north of the Site, and there exists a line to provide service to the PSEWTP. The purpose of this construction is to enable SRT to provide common carrier railroad services: to PSEWTP; for switching and classification to the Oregon Bulk Terminal; to the rail freight shipment requirements of the City of Philadelphia's Department of Sanitation (hereinafter "PDOS") and solid waste companies located in the Philadelphia area through a proposed transloading facility to be constructed by SRT, and transloading for recyclables and wood chip fuel suppliers.
4. Currently, efficient rail transportation is not available to solid waste generators in the City of Philadelphia, which prevents them from reaching more competitive landfill and disposal sites which are not economically accessible by truck.⁵ The Swanson Terminal will reduce the City of Philadelphia Department of Sanitation (hereafter "PDOS") and other Philadelphia solid waste generators' reliance on truck transport of solid waste generated from Philadelphia.
5. Specifically, the Swanson Terminal—including the proposed Line—will allow transport of over 500,000 tons annually of solid waste generated from the Philadelphia area, as well as transport of wood chip fuel and recyclables. Trucks currently use local roads to transport solid waste through Philadelphia to disposal sites north, west and south of the City on the heavily congested Schuylkill Expressway (I-76) and I-95. The Swanson Terminal will divert over 50,000 truck trips annually from these roads, alleviating the area's air pollution, congestion, noise, highway wear and tear, while furthering safety and energy independence.

⁵ As truck transport of solid waste exceeds a truck roundtrip which can be completed in one-day (based on allowable hours of driving), the economic viability of such transport diminishes. The lower priced rail served landfills located in western Pennsylvania and Ohio are more than a one-day's roundtrip drive, and consequently, cannot be reached economically by truck from Philadelphia.

6. There are no solid waste transfer stations in the City of Philadelphia which currently utilize rail to transport solid waste. None of the existing truck based solid waste transfer stations in the City of Philadelphia has sufficient additional space to bring trackage and switches onto the site for transloading solid waste and storage of a necessary supply of rail cars to provide reliable transloading service⁶. Currently, almost all solid waste collected by PDOS, as well as private waste haulers, is transported out of Philadelphia by long-haul trucking. The PDOS contract (the "City Contract") for transfer, transport and disposal of solid waste is up for renewal in June, 2012, and the City is facing a tight budget.

7. In order to compete for this contract the Facility will have to be operational at least 3 months prior to the date of the City Contract. The Swanson Terminal will enable the PDOS to access more competitive rail served landfills which, because of their distance from Philadelphia, cannot be economically accessed by truck⁷, allowing the PDOS to save tens of millions of dollars over the course of the next contract. Furthermore, the Swanson Terminal will allow other businesses to lower their solid waste disposal costs by affording them access to these competitive rail served landfills. The Swanson Terminal will also allow wood, paper, plastics and metal recycling facilities to gain viable access to a broader array of markets that they can by truck.

8. Initially, SRT anticipates that PDOS will be one of its major initial rail customers; however, as a common carrier, SRT will solicit freight business from any customer seeking to use its services and the Facility. In addition to solid waste, SRT has been approached by firms seeking to move wood chips as a fuel source to bio-treatment plants, as well as sand and gravel

⁶ Because of the nature of solid waste, for health and safety reasons a rail served solid waste transfer station must maintain a minimum of on-site storage tracks to hold at least a 3 days' supply of rail cars in the event rail service is temporarily delayed.

⁷ See footnote 5, above.

as part of a back-haul. The initial traffic to be handled through the Facility will consist of about new 6,000 car loads annually of outbound solid waste and wood chips, which currently are generated in the Philadelphia area and travel out of the area by truck. SRT will replace this truck traffic with rail transportation because increased fuel costs, higher tolls, lower gross vehicle weights over bridge crossings and increasing highway congestion moving out of Philadelphia make motor carrier transportation less economical and practical. Furthermore, as local landfill and other solid waste disposal prices increase, rail transportation will afford PDOS and local businesses economically feasible access to more competitive distant disposal options.

9. The City of Philadelphia in a multi-agency study resulting in its report titled *Local Action Plan for Climate Change, April, 2007*, recommended that PDOS seek alternative means of disposing (including transporting) its solid waste. These recommendations have been supported by the City Planning Commission, various City Councilmen and the Philadelphia Clean Air Council (See Attachment D).

10. Based on discussions SRT managers have had with the PDOS, which is expected to be a major shipper from the Swanson Terminal, and City of Philadelphia Planning Commission, and independent solid waste hauler's there is a need and desire to transport solid waste by rail instead of the existing truck mode of transportation.

11. Rail operations will consist of an average of 20 cars per day six days per week. These cars will combine with cars from the Oregon Bulk Yard and the PSEWTP adjoining the Site to the east, moved on-site, classified and handed off to Conrail where they will be added to existing rail service provided by Conrail on its Swanson Street Lead which runs past the Site to the west. Consequently, the rail operations will not create an increase in trains at any grade crossings in the City of Philadelphia.

12. Attachment A contains maps showing the relationship of the facility to be constructed to the existing Swanson Street Lead as well as to the surrounding areas and highway network.

Attachment B contains drawings (hereafter "**Drawings**") of the Site as it exists today and the proposed facility,

13. On January 15, 2010, SRT received a permit (hereafter "**the PaDEP Permit**") from the Pennsylvania Department of Environmental Protection (hereafter "**PaDEP**") to construct and operate a transfer station capable of transloading up to 2,500 tons per day of solid waste from trucks to rail cars, and a zoning certificate from the City of Philadelphia approving the operation of a solid waste facility on the Site.

14. The Site is located in a heavy industrial area of Philadelphia which is in a 'least restrictive' zoning area as designated by the City of Philadelphia, which allows the Facility to be built and operations to be conducted 'as-of-right'.

15. As part of the process in obtaining the PaDEP Permit, SRT solicited and received comments from various local, state and federal agencies, set forth in Attachment C. PaDEP then held a meeting at which it invited all interested local, state and federal agencies to hear their comments on the application for the proposed PaDEP Permit. As part of the process of obtaining the PaDEP Permit, the PaDEP conducted its own environmental analysis based in large part on information provided by SRT in the PaDEP Permit application Part D, which has been previously delivered to the Board's Office on Environmental Analysis (hereafter "**OEA**"), as well as comments it receives from other agencies as part of the local municipal involvement plan ("**LMIP**"), and PaDEP concluded that the Facility created no significant impact. The PaDEP Permit process involved: extensive outreach to other state and federal agencies (Attachment C sets forth the communications and responses) as well as the LMIP meeting at which all local and

state agencies are invited to comment on environmental and logistical issues created by the proposed Facility; contacts with and presentations to the local community by both SRT and PaDEP (Attachment D sets forth meetings held with various local communities and their elected officials); an independent study of any potential environmental justice impacts from the Facility; and a review of data regarding the Facility, its operations, traffic patterns (including separate traffic studies) and the surrounding area. In addition, SRT has and continues to hold meetings with the local community to solicit their comments regarding the proposed Facility and keep them informed, see Attachment D).

16. SRT has applied to the Federal Railroad Administration (hereafter "FRA") for a loan pursuant to the Railroad Rehabilitation and Improvement Act (hereafter "RRIF") loan program. In conversations among the FRA, the OEA and SRT, FRA has expressed its opinion that SRT's activities to be funded by the RRIF loan would be categorically exempted from an environmental review based on the National Environmental Protection Act rules that apply to the FRA's RRIF program.

17. Although this track would extend about 9,526 feet if laid out end-to-end, at its broadest point the entire parcel only extends about 200' from side to side and about 2,200 feet from one end to the other.

18. The Line connects with Conrail's Swanson Street Lead track which is west of the Site. The Swanson Street Lead begins at a switch in the Delaware Extension Yard Track, Conrail Line Code 1143 (also referred to as the Delaware Extension) at Milepost 7.5, which switch is located about 750 feet south and west of the south western corner of the Site. That connection is approximately 5 miles from Center City Philadelphia.

19. The Site is located in the center of the Port of Philadelphia and the food distribution district, and less than one mile from the Philadelphia Navy Yard. The area is characterized by heavy truck traffic. Classified as a nonattainment area for purposes of air quality, Philadelphia's population in 2008 was 1,540,000.

20. The Site is currently a flat parcel of undeveloped land that was formerly part of the Swanson Rail Yard, which was part of the larger Whiskey Rail Yard, before that yard was subdivided and various parcels sold off for other uses. The Site is zoned 'least-restrictive', which allows the heaviest industrial uses in Philadelphia, including the activities contemplated at the Facility. The Site is bounded: on the north by the elevated I-76 approach to the massive Walt Whitman Bridge crossing the Delaware River; on the west by the elevated I-95 exit ramp and the extremely busy six lanes of I-95 itself; on the south by Pattison Avenue and the Greenwich Rail Yard (shared by CSXT, Norfolk Southern Railroad and Conrail); and on the east by the PSEWTP and a truck based solid waste transfer station. There are no residences, schools, playgrounds, hospitals, nursing homes or assisted living facilities adjoining the Site. The closest residential area or other sensitive receptor is over 2,000 feet to the north and west of the Site well screened by both of these extensive highway traffic structures. (See Attachment A-2).

21. SRT seeks to build the rail facilities to serve the solid waste haulers that currently lack adequate rail service. There are no sidings or rail yards in the Philadelphia area which are capable of transloading solid waste. In selecting a suitable site for transloading solid waste, several criteria must co-exist: good access to the local highway network; access to reliable rail service; sufficient space and geometry for transloading operations and back-up storage for at least three days' supply of empty rail cars; well buffered from residential areas and other sensitive receptors; properly zoned for such use; and available for development. Other than the

Site, I am not aware of any other sites in the densely populated and developed Philadelphia market which could meet all of these criteria. Consequently, all solid waste generated in Philadelphia is transported by truck over congested highways, such as the Schuylkill Expressway (I-76) and I-95.

22. Initially, service from the Swanson Terminal will consist of adding approximately 20 cars per day to the daily Conrail service which currently passes by the Site on the Conrail Swanson Street Lead on its way to the Oregon Bulk Yard located approximately one-quarter mile north of the Site; and Conrail provides this service in the middle of the night. Consequently, the Swanson Terminal will not require additional trains along the Conrail Swanson Street Lead. The only grade crossing within Philadelphia which will be affected by this service is the crossing at Pattison Avenue, adjacent to the Site. Since this crossing will result in an additional delay of up to 3 ½ minutes twice daily (ones in-bound and once out-bound) which will occur during the middle of the night when there is little traffic in the area, there should be no significant adverse impact on road traffic or safety in the area.

23. The need for the Swanson Terminal is important to the City of Philadelphia and the region's businesses. The City Contract is up for renewal in less than two years in June 2012.

24. SRT is considering three interchange connections into Conrail's Swanson Street Lead, which will allow Conrail to provide more efficient service to the Swanson Terminal as well as the Oregon Bulk Yard, as depicted on Attachment A-2. These three interchanges will be connected by two through tracks (hereafter "the Through Tracks") which will enable Conrail to drop cars destined for both the Swanson Terminal and the Oregon Bulk Terminal on the Through Tracks, and then the Conrail engine can run-around and return to its own yard or proceed to pick up out-bound rail cars from the Swanson Terminal and the Oregon Bulk Terminal—SRT then

intends to switch its cars from the Through Tracks into its own storage yard at the north end of the Swanson Terminal, and to switch the cars destined for the Oregon Bulk Terminal into that yard about one-quarter mile north of the Swanson Terminal. In addition to the Through Tracks, the Swanson Terminal will consist of multiple switches and sidings which will be incorporated into a yard for storage tracks at the south end of the Site and tracks for transloading on the westerly side of the Site (but east of the Through Tracks) as depicted on Attachment A-2. Transloading of solid waste will occur within confined buildings as depicted on Attachment A-3.

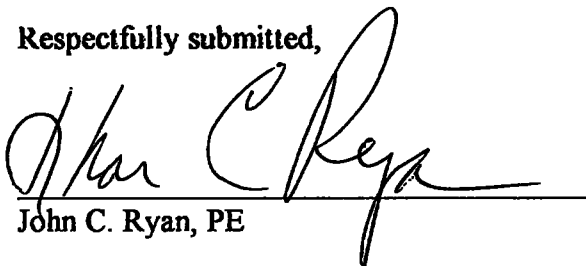
25. There will be no public access and no public grade crossings. The Line will not cross any navigable waterways.

26. There are no wetlands or known endangered animal or plant species potentially affected by this project.

27. To the best of Petitioner's knowledge the proposed improvements do not traverse any ancient Indian burial grounds, archeological sites, unique land forms, or federal lands.

28. The subject area is a nonattainment area. SRT believes that the utilization of rail instead of truck will promote energy conservation and reduce air and noise pollution. Furthermore, use of rail will improve highway safety and reduce traffic congestion. Finally, use of rail will improve recycling by providing recycling facilities with a broader access to markets for their materials.

Respectfully submitted,

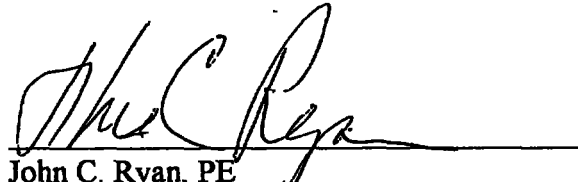
A handwritten signature in black ink, appearing to read "John C. Ryan", is written over a horizontal line. The signature is stylized with large, flowing letters.

John C. Ryan, PE

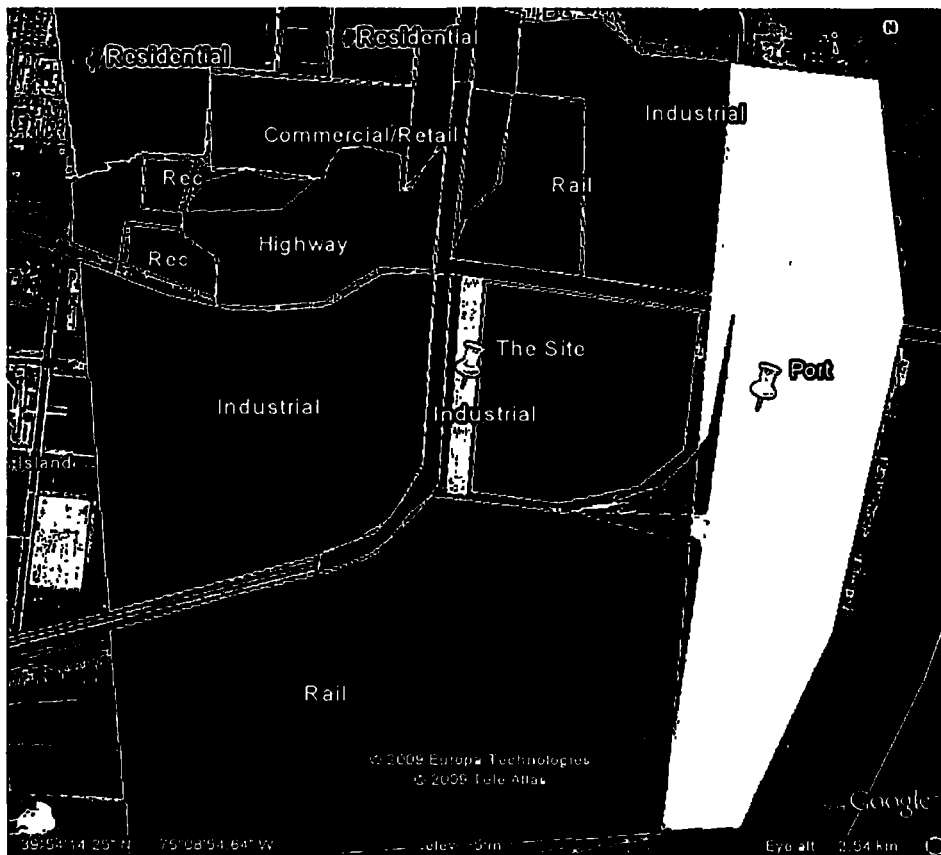
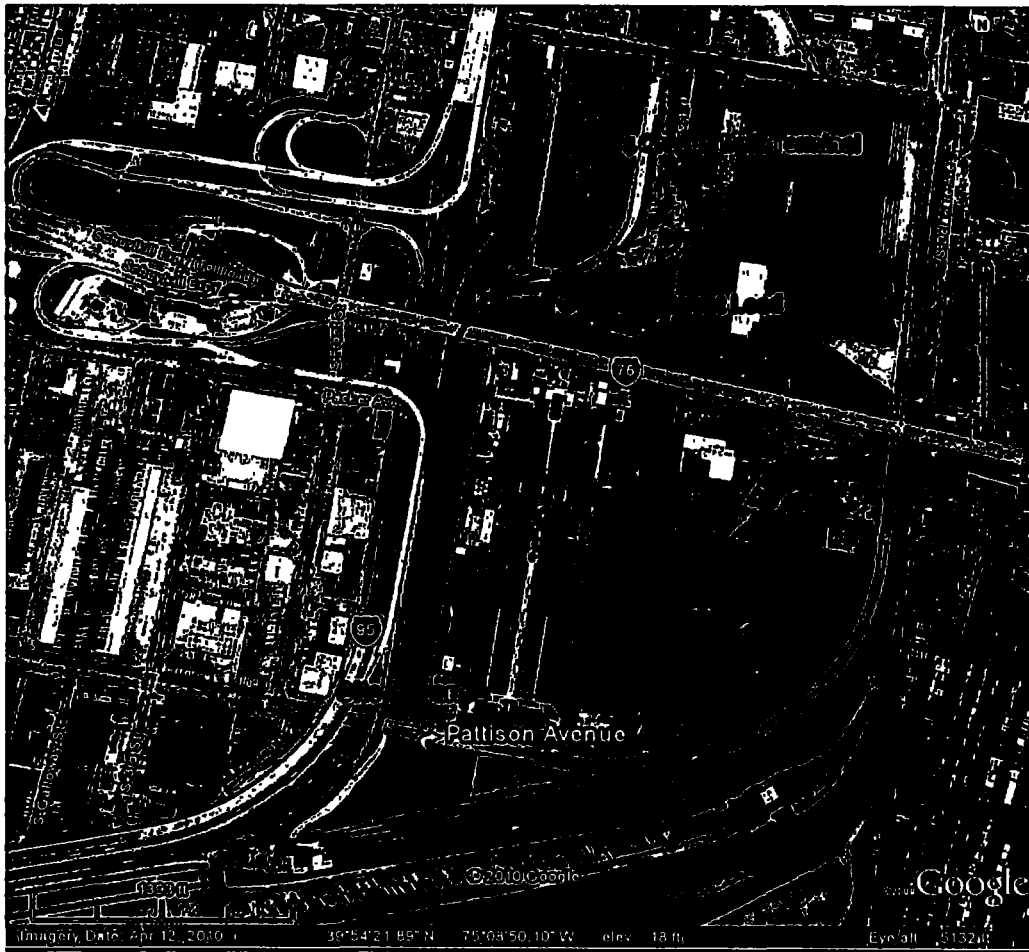
VERIFICATION

I, John C. Ryan, PE, verify under penalty of perjury under the laws of the United States that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement.

Executed on October 6, 2010


John C. Ryan, PE

ATTACHMENT A-1
LOCATOR MAP



HIGHWAY ACCESSES

FIGURE 2
SWANSON RAIL TRANSFER
INTERSTATE 76 ACCESS ROUTES

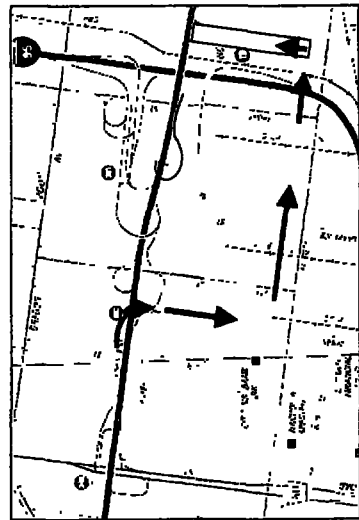


PLATE 1 Arrivals from I-76 Eastbound

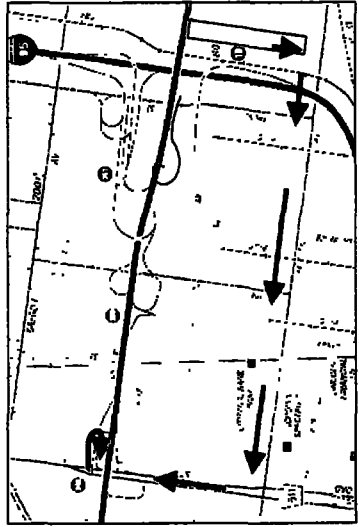


PLATE 2 Departures to I-76 Westbound

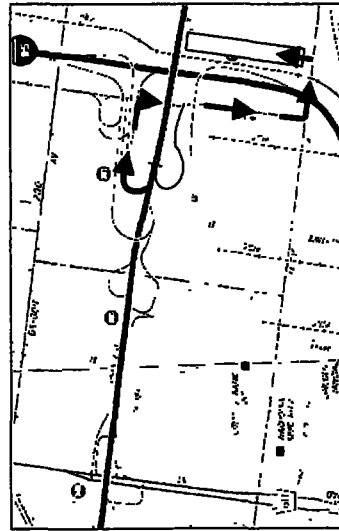


PLATE 3 Arrival from I-76 Westbound

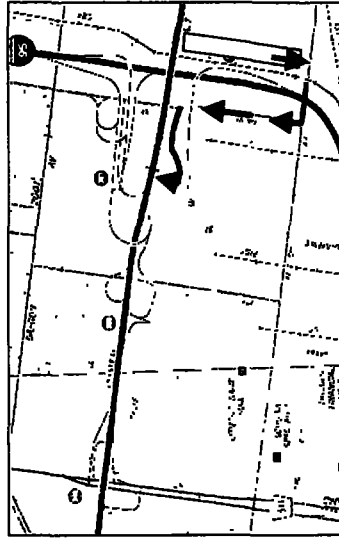
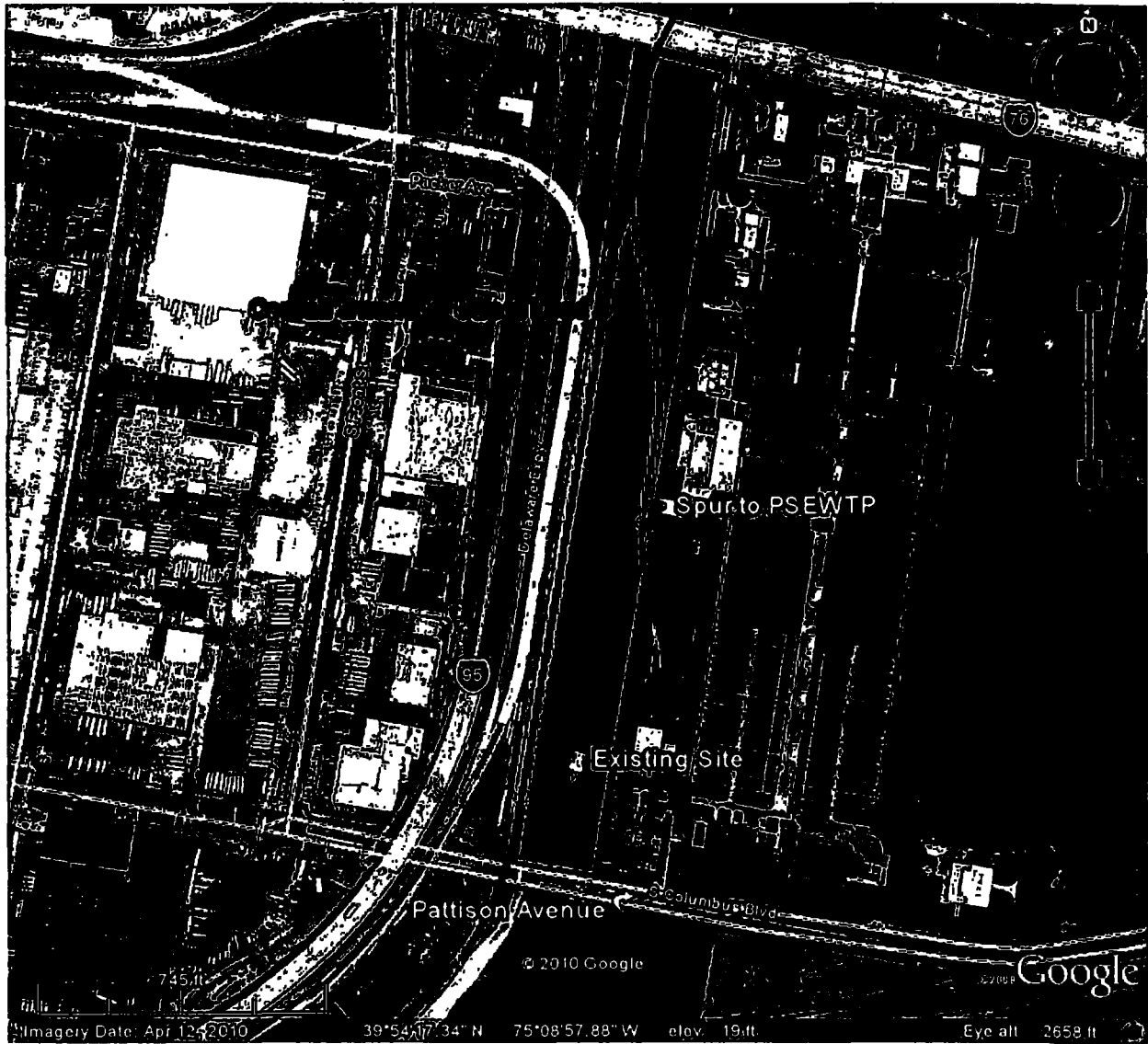


PLATE 4 Departures to I-76 Eastbound

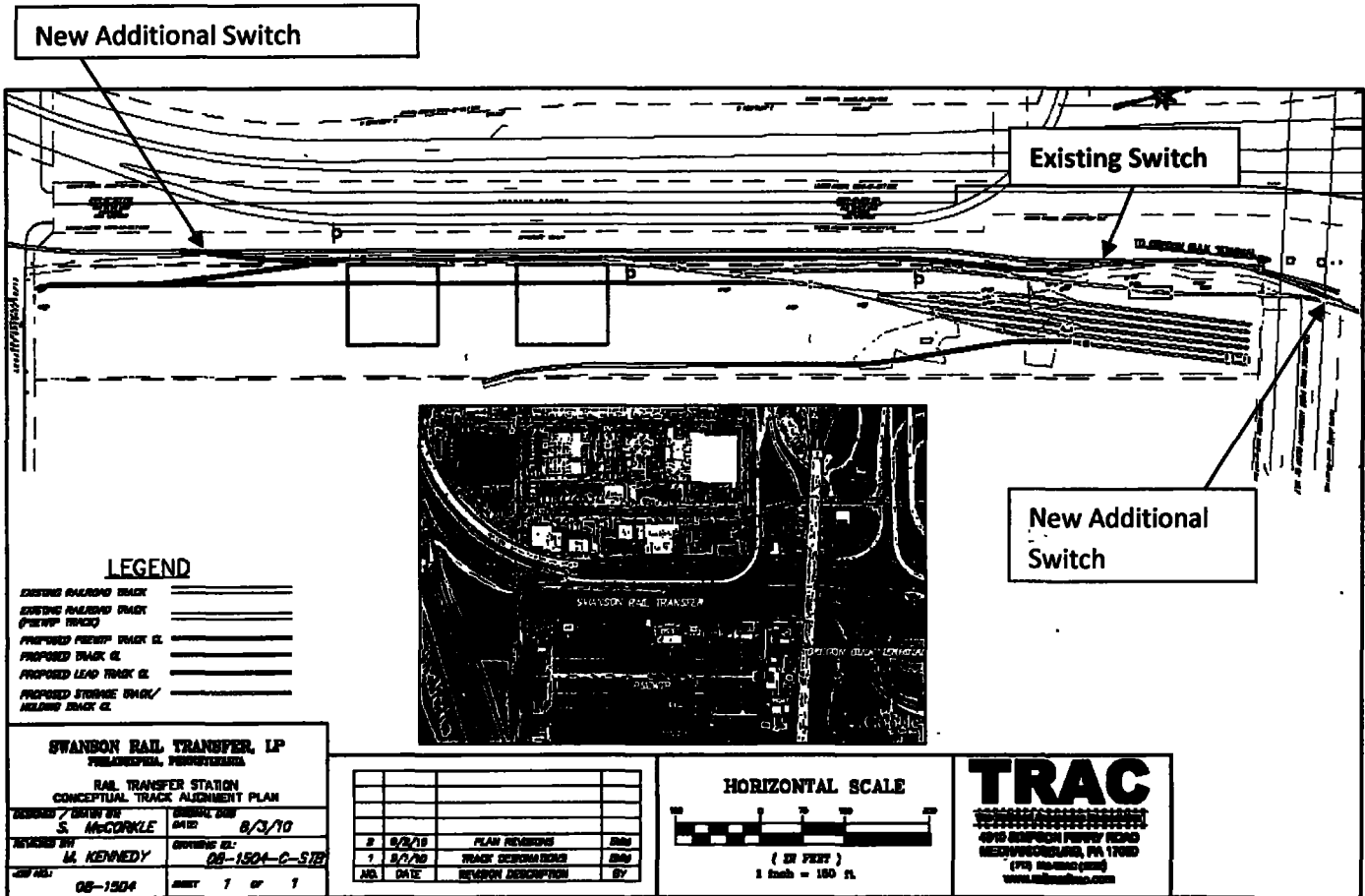
ATTACHMENT B-1

EXISTING SITE CONDITIONS



ATTACHMENT B-2

TRACK CONSTRUCTION



New Track Construction

		<u>Track Feet</u>
Lead Track	(Red)	1,295
Yard & Holding Track	(Yellow)	3,600
Spur/Industrial	(Blue)	1,160
PSEWTP	(Cyan)	<u>565</u>
Subtotal		6,620

11 Industrial Turnouts		2,046
2 Conrail Turnouts		<u>444</u>
Subtotal		<u>2,490</u>

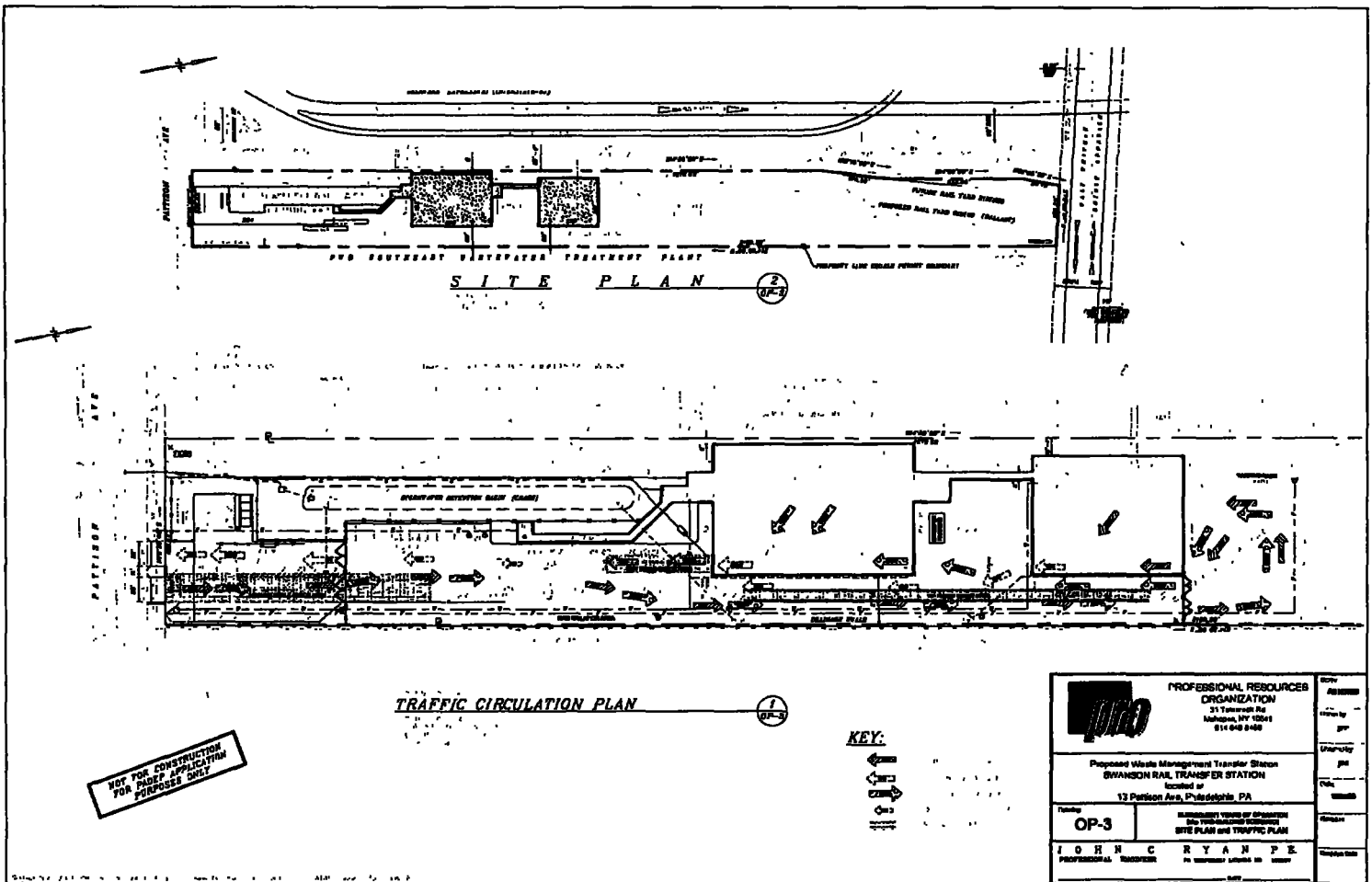
Total 9,110

Existing Track Retained (PSEWTP service) 416

TOTAL all tracks 9,526

ATTACHMENT B-3

IMPROVEMENTS, SITE WORK, DRIVEWAYS



Note that track layouts in Attachment B-3 are slightly different from those contained in Attachment B-2. To the extent they differ, the layouts in Attachment B-2 control, which do not affect any of the improvements or site work.

ATTACHMENT C

AGENCY SOLICITATION and COMMENTS

AGENCY	ADDRESS	ISSUE	Answer
Environmental Programs Coordinator Division of Archaeology and Protection Bureau of Historic Preservation PA Historical and Museum Commission	State Museum Building, Harrisburg, PA 17108-1026	-Is the Project located within 1 mile of an historic property owned by the Commission -is the project located within one-quarter mile of an historic site listed on the National Register of Historic Places or the PA Inventory of Historic Places; or an archaeological site listed in the PA archaeological survey	No impact
Environmental Programs Coordinator Bureau of Water Supply & Wastewater Management Pa DEP	PO Box 8467 Harrisburg, PA 17105-8467	-Is the project located within the watershed or aquifer and within one mile of a public water supply facility dependent on groundwater sources; or upstream within the watershed, and within three miles of a public water supply facility dependent on surface sources	NR
Environmental Programs Coordinator Pa Fish & Boat Commission	1601 Elmerton Ave Harrisburg, PA 17106-7000	-Is the project located within an area which is the habitat of a threatened, or endangered species of plant or animal or protected by the federal Endangered Species Act of 1973; or recognized by the Pa DEP, Pa Fish Comm, or Pa Game Comm	NR
Mr. David Densmore US Dept of Interior US Fish & Wildlife Services, PA Field Office	315 South Allen Street, Suite 322 State College, PA 18101-4850	-Is the project located within an area which is the habitat of a threatened, or endangered species of plant or animal or protected by the federal Endangered Species Act of 1973; or recognized by the Pa DEP, Pa Fish Comm; or Pa Game Comm	No impact
National Diversity Inventory Forest Advisory Services Pa Bureau of Forestry	PO Box 8552 Harrisburg, Pa 17105-8552	-Is the project located within an area which is the habitat of a threatened, or endangered species of plant or animal or protected by the federal Endangered Species Act of 1973; or recognized by the Pa DEP, Pa Fish Comm; or Pa Game Comm	NR
Environmental Programs Coordinator Division of Land Management Pa Game Commission	2001 Elmerton Ave Harrisburg, PA 17110-9797	-Is the project located within an area which is the habitat of a threatened, or endangered species of plant or animal or protected by the federal Endangered Species Act of 1973; or recognized by the Pa DEP, Pa Fish Comm; or Pa Game Comm	No Impact
Regional Director, Northeast Regional Office National Park Service (US Dept of Interior)	US Custom House 200 Chestnut Philadelphia, PA 19106	-Is the project located within one mile of a unit of the National Park System; a state, county or municipal park; a recreational facility operated by the US Army Corps of Engineers; a state forest picnic area, or the Alleghany National Forest; -Is the project located within one mile of the Appalachian Trail; -Is the project located within one mile of a national landmark designated by the Pa Environmental Quality Board	No impact
Environmental Programs Coordinator US Dept of Interior National Park Service Appalachian Trail Park Office	PO Box 50 Harper's Ferry, WV 25425	Is the project located within one mile of the footpath of the Appalachian Trail	NR
Environmental Programs Coordinator Pa Dept of Conservation & Natural Resources Bureau of Forestry	PO box 8552 Harrisburg, PA 17105-8552	-Is the project located within one mile of a unit of the National Park System; a state, county or municipal park; a recreational facility operated by the US Army Corps of Engineers; a state forest picnic area, or the Alleghany National Forest; -Is the project located within one mile of a national landmark designated by the Pa Environmental Quality Board	NR
Ms. Barbara McCabe Parks Coordinator Recreation Parks Office	1515 Arch Street Philadelphia, PA 19102-1587	-Is the project located within one mile of a unit of the National Park System; a state, county or municipal park; a recreational facility operated by the US Army Corps of	NR

		Engineers; a state forest picnic area, or the Alleghany National Forest;	
Pa Dept of Conservation & Natural Resources Environmental Programs Coordinator Bureau of State Parks	PO box 8551 Harrisburg, PA 17101-8551	-Is the project located within one mile of a unit of the National Park System; a state, county or municipal park; a recreational facility operated by the US Army Corps of Engineers; a state forest picnic area, or the Alleghany National Forest;	No Impact
Chief-Navigation and Maintenance Branch US Army Corps of Engineers Philadelphia District	Wanamaker Building 100 Penn Square East Philadelphia, PA 19107-3390	-Is the project located within one mile of a unit of the National Park System; a state, county or municipal park; a recreational facility operated by the US Army Corps of Engineers; a state forest picnic area, or the Alleghany National Forest;	No Impact
Mr. James Newbold Watershed Management Program PaDEP	2 East Main Street Norristown, PA 19401-4915	Is the project located within a Special Protection Watershed, as designated in Chapter 93 (relating to Pennsylvania's Stream Water Quality Criteria) of the Rules and Regulations of the Pa DEP	No Impact
Environmental Program Coordinator Pa Dept of Conservation & Natural Resources Bureau of Recreation and Conservation	PO box 8475 Harrisburg, PA 17105-8475	-Is the project located in the corridor of a stream or river designated as a national or state wild, scenic, recreational, or modified recreational river in accordance with the national Wild and Scenic Rivers Act of 1968, or the Pennsylvania scenic River Act; -Is the project located within one mile of the nearest bank of a stream or river listed as a 1-A priority for study by the Pa DEP as a state wild, scenic or recreational, or modified recreation river, or mandated by US Congress for study or determined by US Heritage Conservation and Recreational Service to meet the criteria for study of potential inclusion in the National Wild and Scenic River System	NR
National Park Service, NE Regional Office Environmental Program Coordinator	200 Chestnut Street Philadelphia, PA 19106	is the project located in the corridor of a stream or river designated as a national or state wild, scenic, recreational, or modified recreational river in accordance with the national Wild and Scenic Rivers Act of 1968, or the Pennsylvania scenic River Act;	No Impact
Pa Dept of Conservation & Natural Resources Bureau of Topographic & Geological Survey Geological Mapping & Laboratory Services	PO Box 8453 Harrisburg, PA 17105-8453	Is the project located in landslide, sinkhole or mine subsidence prone area	NR

ATTACHMENT D

MEETINGS with

COMMUNITY, CIVIC GROUPS, ELECTED OFFICIALS and PLANNING ORGANIZATIONS

<u>Contact</u>	<u>Type</u>	<u>Date</u>
Philadelphia Port Authority	Civic Group + Planning Org	Dec. 07
State Sen. Fumo	Elected Official	Dec. 07
Pennsylvania Clean Air Council	Civic Group	Dec. 07
Delaware Valley Regional Planning Commission	Planning Organization	Dec. 07
Councilwoman Verna	Elected Official	Dec. 07
Councilman Kenny (at large)	Elected Official	Dec. 07
Schuylkill River Development Corporation	Community Group + Planning Org	Jan 08
Whitman Community Council	Community Council	Jan. 08
Packer Park Community Council	Community Council	Feb. 08
Sports Complex Special Services District	Community Council	Feb. 08
State Rep. Keller	Elected Official	March 08
Whitman Community Council	Community Council	June 08
Councilman DiCicco (at large)	Elected Official	Jan. 08
Sports Complex Special Services District	Community Council	Aug. 08
City Planning Department	Planning Organization	Oct. 08
Philadelphia Industrial Development Corp.	Civic Group + Planning Organization	Apr. 09
State Rep. Keller	Elected Official	May 09
Whitman Community Council	Community Organization	Oct. 09
State Sen Farnese (succeeded Sen. Fumo)	Elected Official	Nov. 09
State Rep. Evans	Elected Official	Nov. 09
Pennsylvania Clean Air Council	Civic Group	Feb. 10

Clean Air Council



May 4, 2009

Mohammad Mazid, PhD
Waste Management Program
PA Department of Environmental Protection
2 East Main Street
Harrisburg, PA 17120

Re: Waste Management Permit Application
Swanson Rail Transfer, LP
Applicant No. 101P95
ARS No. 340343, ALU No. 72869

Dear Dr. Mazid:

I am writing on behalf of the Clean Air Council to give the strongest possible support to permit application of Swanson Rail Transfer, now before the Southeast Region for final determination.

The Council has been aware of this worthwhile project since December of 2007 when the project sponsor made a presentation to the Council. I am also aware of the Benefit and Harm Analysis included in section N of Form D of the Application to the UCL.

This is an exciting project from an environmental point of view, the project will be the first fully rail bonded solid waste transfer station in the City. At full capacity, it will remove approximately 70 tractor trailer trips (one way) through the City and eastern Pennsylvania. Such a project is clearly consistent with EPA, DEP and AMS' goal of substantially reducing air diesel emissions.

The obvious mutual benefit with respect to air quality, climate impact, energy consumption, traffic, safety and, most importantly, neighborhood health is clear and significant.

I urge the Department to quickly complete their review and to issue a permit for this facility. There is an immediate need for such a facility in the City and the region. Hopefully other such rail transfer projects will follow.

If you have any questions about the Council's position on this issue, please feel free to e-mail me at info@cleanair.org or call me at 215-567-4034 x 110.

Joseph Otis Minoli, Esq.
Executive Director

Philadelphia
155 South 9th Street
Suite 300
Philadelphia, PA 19103
215-567-4034
Fax: 215-567-5411
E: info@cleanair.org
www.cleanair.org

Harrisburg
407 N. Front St.
Suite 111
Harrisburg, PA 17101
717-226-0830
Fax: 717-226-3800

Winchester
Columbia, Pennsylvania
100 W. 6th St.
Suite 100
Winchester, DE 19381
610-671-0117

[E-Mail from Packer Park Community Council Feb. 11, 2008]

Shawn,

Just spoke with Bob DiMento Sr and Jr. Excellent businessmen I have known for years. They run a class operation Brooks Provisions near the Food Distribution Center. They own ground near the rail lines and are proposing a trash transfer station, adjacent to Waste managements facility. The new facility would move the outgoing trash on rails. The new building would be self contained and very modern. Industrial area, zoned I.R, least restrictive.

Before they strat the permitting process in earnest, they have been meeting with community groups. I thought the SCSSD was a more appropriate forum than our groups individually.

You may feel, as I do, that this is beyond our area of input, but you may want to touch base with them in either case.

On another note, they are 'hearing' that Sysco is not moving now???? You can ask them about that.

bc

Bob DeMento, Jr.

Brooks Provisions

3445 South Front Street

Philadelphia, PA 19148

(Phone) 215-465-3100 x 121

(Fax) 215 - 465-1302

(E-Mail) bdemento@brooksproversions.com

Barbara A. Capozzi, Esq.

Capozzi Real Estate / Insurance, Ltd.

3320 South 20th Street

Phila. Pa. 19145

Ph - 215 551 5100

Fx - 215 551 5230

bc@CapozziRealEstate.com

www.CapozziRealEstate.com

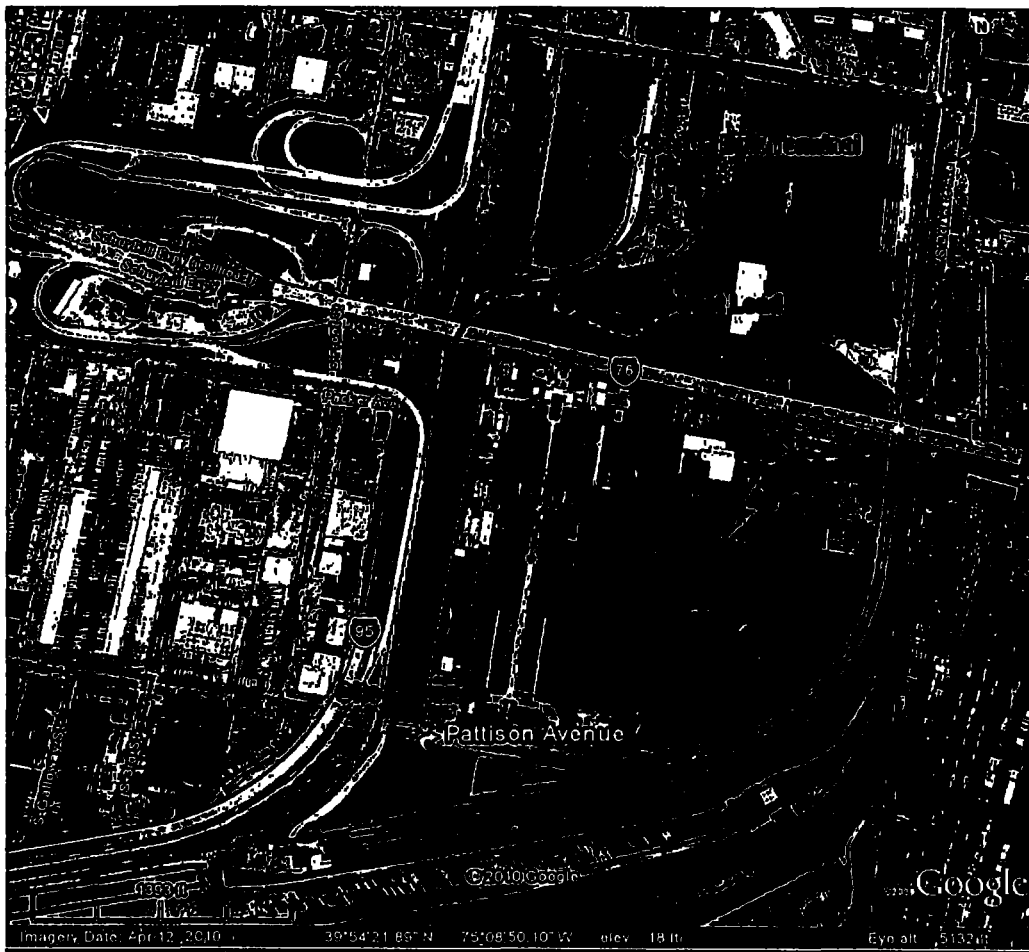
Who's never won? [Biggest Grammy Award surprises of all time on AOL Music.](#)

This email has been scanned by the MessageLabs Email Security System.
For more information please visit <http://www.messagelabs.com/email>

This email has been scanned by the MessageLabs Email Security System.
For more information please visit <http://www.messagelabs.com/email>

EXHIBIT 13

EXHIBIT B-1
LOCATOR MAP



HIGHWAY ACCESSES

FIGURE 2
SWANSON RAIL TRANSFER
INTERSTATE 76 ACCESS ROUTES

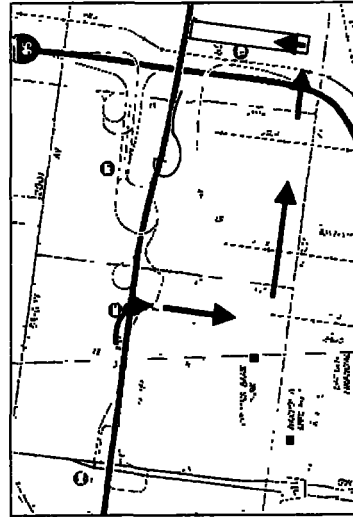


PLATE 1 Arrivals from I-76 Eastbound

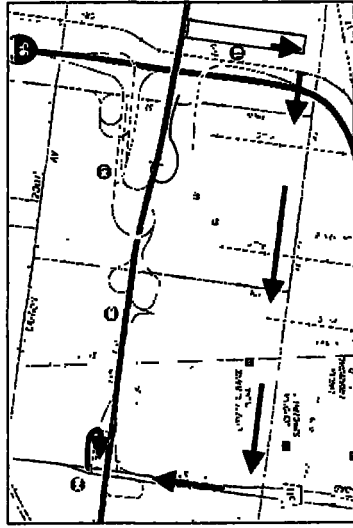


PLATE 2 Departures to I-76 Westbound

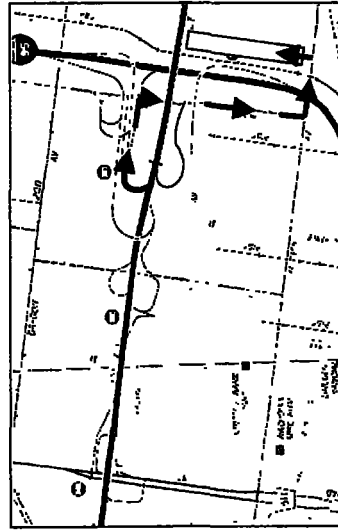


PLATE 3 Arrival from I-76 Westbound

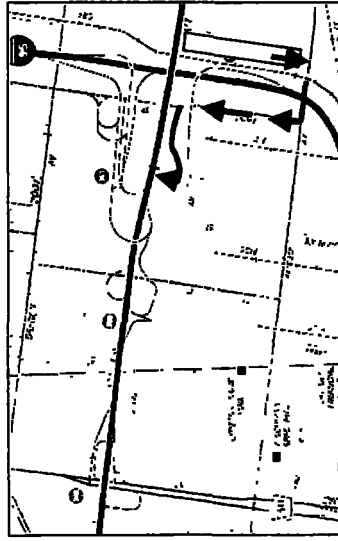


PLATE 4 Departures to I-76 Eastbound

EXHIBIT C

EXHIBIT C-1

EXISTING SITE CONDITIONS

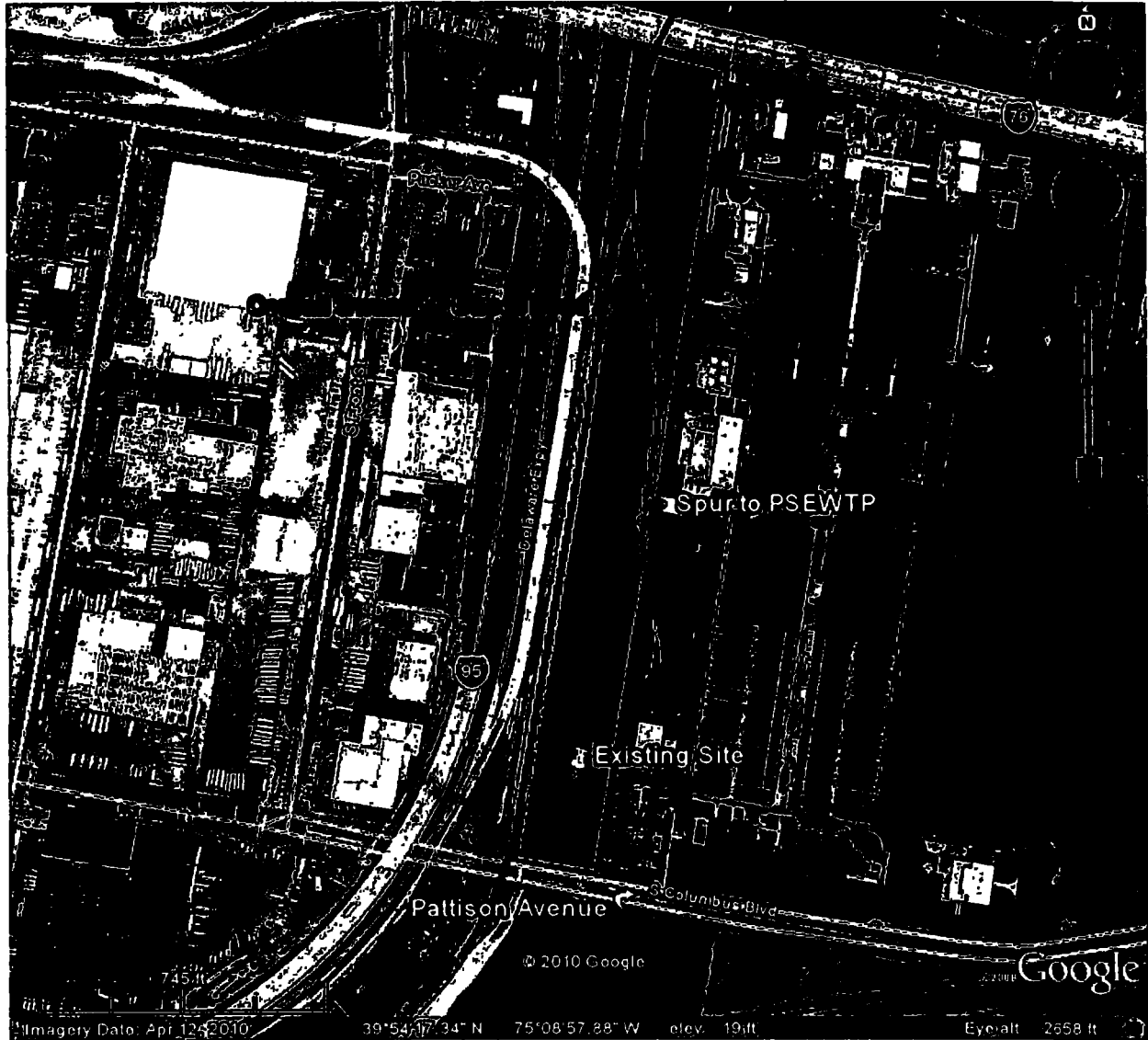
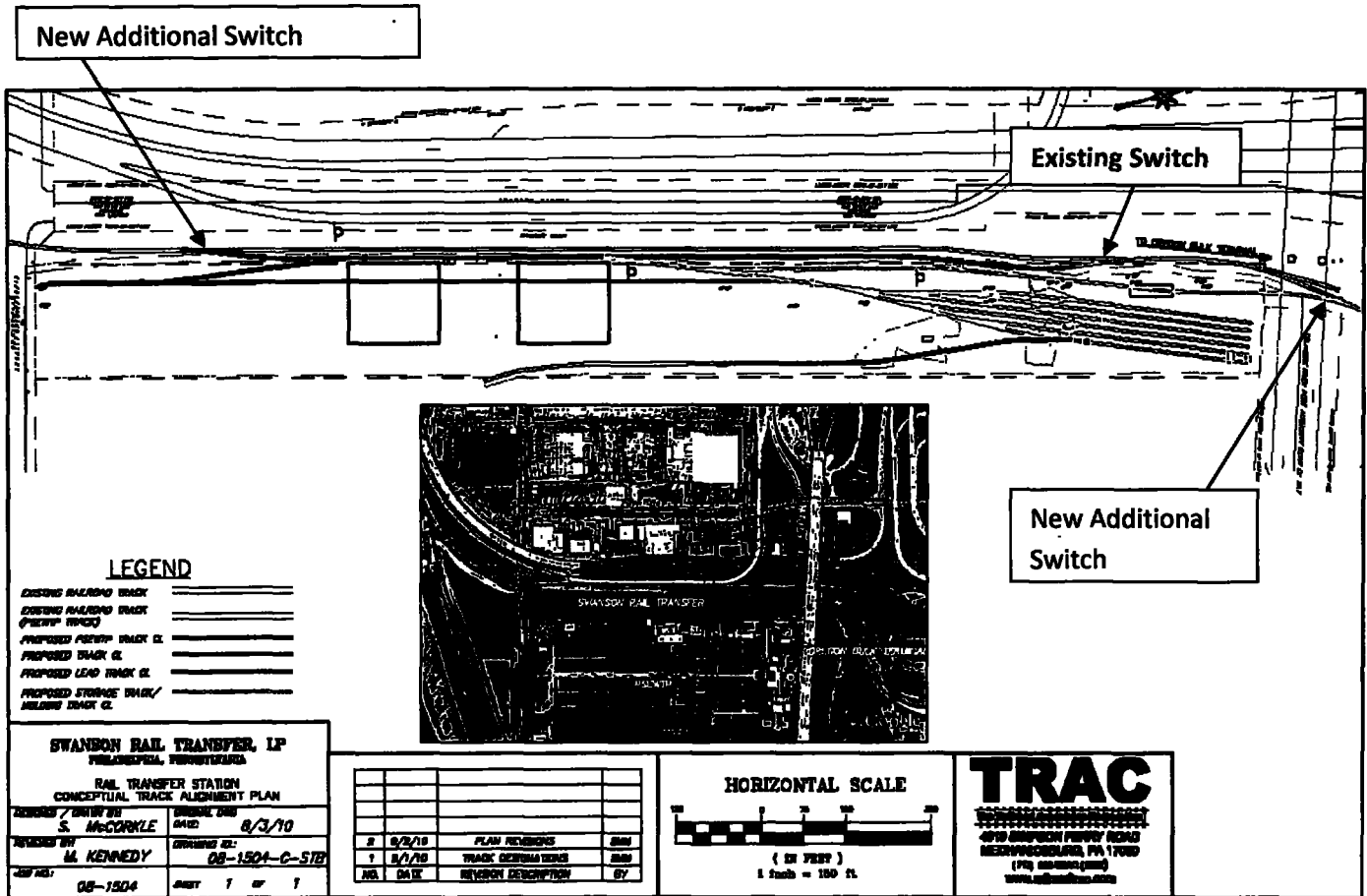


EXHIBIT C-2

TRACK CONSTRUCTION



New Track Construction

		Track Feet
Lead Track	(Red)	1,295
Yard & Holding Track	(Yellow)	3,600
Spur/Industrial	(Blue)	1,160
PSEWTP	(Cyan)	565
Subtotal		6,620

11 Industrial Turnouts	2,046
2 Conrail Turnouts	444
Subtotal	2,490

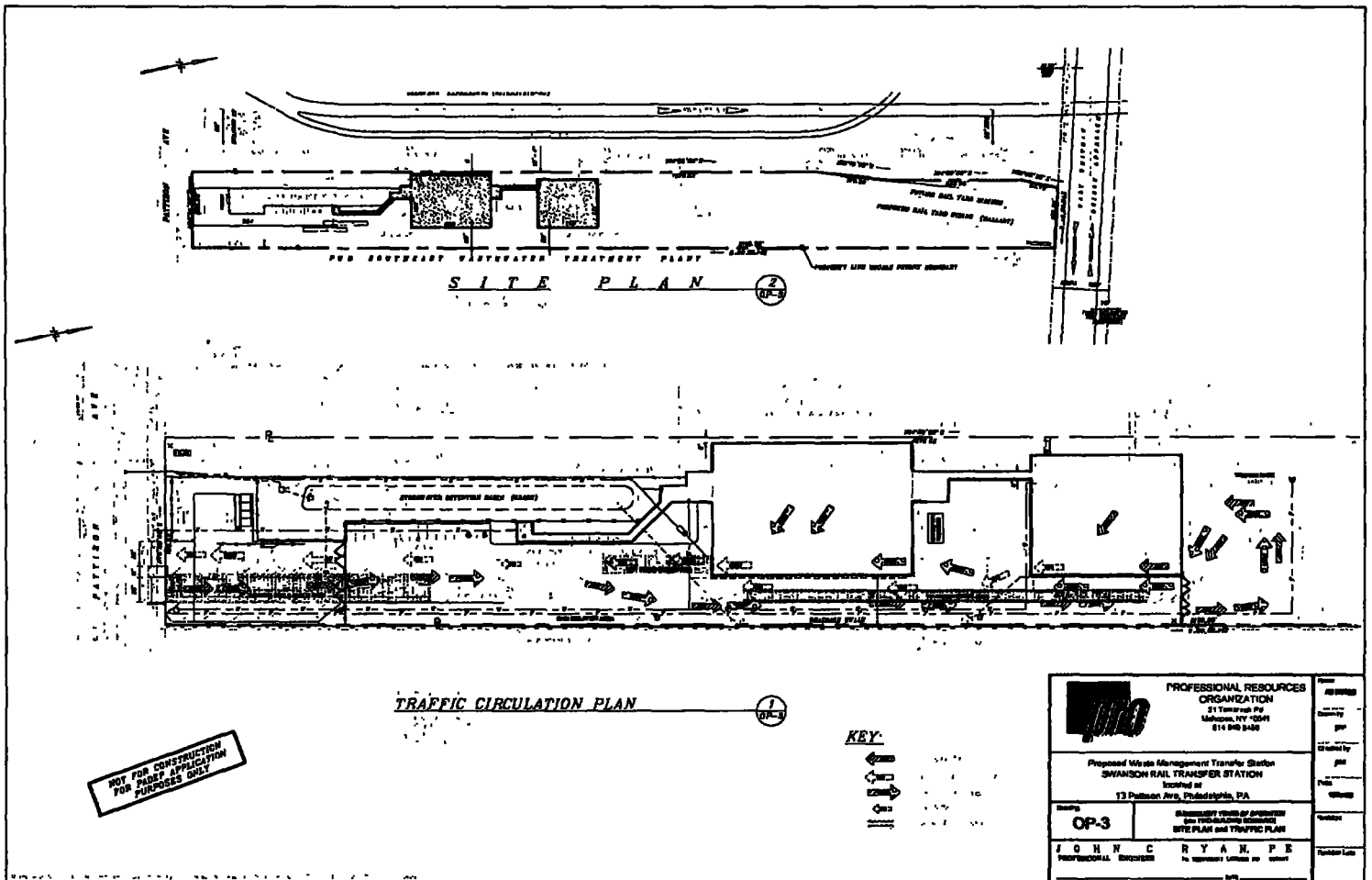
Total 9,110

Existing Track Retained (PSEWTP service) 416

TOTAL all tracks 9,526

EXHIBIT C-3

IMPROVEMENTS, SITE WORK, DRIVEWAYS



Note that track layouts in Exhibit C-3 are slightly different from those contained in Exhibit C-2. To the extent they differ, the layouts in Exhibit C-2 control, which do not affect any of the improvements or site work.